



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 04/04/2022

PRONOUNCED ON: 08/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.5763 of 2022

1. Ravi @ Ravichandran,

2. Karthik,

3. Rajesh,

4. Veerangan, ... Petitioners/Accused Nos. 1 to 4

Vs

THE STATE REP BY,
The Inspector of Police,
C-2 Police Station,
(Subramaniapuram Police Station),
Madurai 625 003.
(In Cr.No. 154 of 2022). ... Respondent

Arunprasath ...Petitioner/Defacto Complainant
in CRL MP(MD)No. 4319 of 2022

For Petitioner : MR.R.Ramasamy, Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)

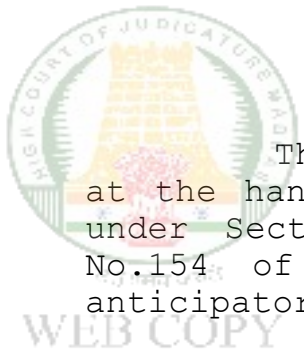
For Intervenor : Mr.S.Hameed Ismail, Advocate
in CRL MP(MD)No. 4319 of 2022

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 154 of 2022 on the file of
the respondent Police.

<https://hccse.courts.gov.in/hccse/Cases/> The Court made the following order :-



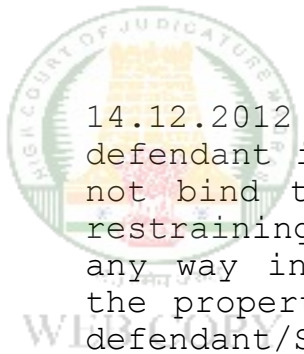
The petitioners/ Accused Nos.1 to 4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 447, 294(b), 506(ii) I.P.C., in Crime No.154 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant has purchased the property from one Babu Kandasamy on 04.03.2022 and is in possession of the same, that on 05.03.2022 at about 12 O' Clock, the accused had trespassed into the said property and by placing two generators, had attempted to encroach the property, that when the same was questioned, the accused had abused him in filthy language and caused criminal intimidation with the help of the dangerous weapons. Hence, the present complaint.

3. The petitioners' case is that the first petitioner has purchased the ulavadai pathiyam (cultivation right) from one Paulpandi through a registered deed dated 14.12.2012, that the first petitioner has been enjoying the property, that the said Paulpandi had obtained the said ulavadai pathiyam from his father Pootchi Alagu Thevar through a gift deed, who in turn got a decree for his ulavadai rights in O.S.No.1800 of 1981, on the file of the Principal District Munsif Court, Madurai, that one Babu Kandasamy has sold the land to the defacto complainant and that when the first petitioner was in the witness box for cross-examination in O.S.No.349 of 2015, on the file of the Principal District Munsif Court, Madurai, the said Babu Kandasamy sold the property to the defacto complainant by suppressing the ulavadai rights of the first petitioner.

4. The learned Counsel for the petitioners would submit that the said Babu Kandasamy has also filed a suit in O.S.No.349 of 2015, to cancel ulavadai deed executed in favour of the first petitioner and the same is pending on the file of the Principal District Munsif Court, Madurai, that the first petitioner has approached the Sub-Registrar on 04.03.2022 morning itself and requesting him not to register the property, but the Sub-Registrar refused to receive the same and registered the document in favour of the defacto complainant, that the first petitioner had immediately sent a complaint to the IG and DIG, Department of Registration, on 04.03.2022 and the DIG, Madurai forwarded the petition of the first petitioner, that the respondent police has also called the first petitioner for enquiry and the first petitioner has appeared and gave reply, that it is a pure civil case and that the defacto complainant has preferred a complaint falsely implicating the petitioners.

5. It is not in dispute that Babu Kandasamy who has sold the property to the defacto complainant has filed a suit against the first petitioner and one Paulpandi and the Joint Sub-Registrar, Madurai are that the cultivating tenancy release deed dated

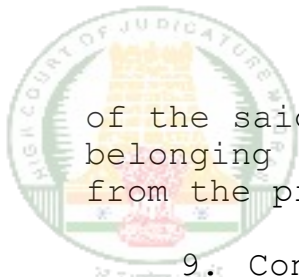


14.12.2012 executed by the first defendant in favour of the second defendant in respect of the suit property is null and void and will not bind the plaintiff and for consequential permanent injunction restraining the defendants 1 and 2 and their men and agents from in any way interfering with the peaceful possession and enjoyment of the property and also for mandatory injunction directing the third defendant/Sub-Registrar to cancel the cultivating tenancy release deed dated 14.12.2012 and for permanent injunction restraining the third defendant from registering any document executed by the defendant 1 and 2 in respect of the suit property and that the same is pending in O.S.No.349 of 2015, on the file of the Principal District Munsif Court, Madurai.

6. The case of the intervenor/defacto complainant is that the entire extent of 5.68 acres in Survey No.420/2B was originally belonging to Natchiappan and he has parted out southern 4.80 cents into house sites and named it as Alagusundaram Nagar, that the lay out was duly approved by the Deputy Director of Town Planning, that one Vedhachalam has purchased plot No.39 from Nachiappan under registered sale deed dated 11.09.1953, that since the said Vedhachalam died intestate on 13.03.1994, his daughter and sons have become the owners of the said property, that the Babu Kandasamy has purchased the said Plot No.39 from the legal heirs of the said Vedhachalam vide sale deed dated 26.09.2007 and he has been in possession and enjoyment and that thereafter, one Paulpandi claiming to be the cultivating tenant has demanded huge amount to release the tenancy right, that since the said Paulpandi had started giving troubles, they had negotiated and the said Babu Kandasamy has paid Rs.1,75,000/- and on receipt of the same, the said Paulpandi released the alleged cultivating tenancy right.

7. The learned Counsel for the intervenor would submit that the said Paulpandi cannot claim any right as cultivating tenant as there was no agricultural operation in the entire survey number 420/2B since 1983 when the land was parted out into house site by way of approved lay out, that the said Paulpandi not satisfied with the amount received from Baby Kandasamy had deliberately and intentionally with a view to extract more money executed a registered cultivating tenancy release deed in favour of the first petitioner on 14.12.2012, that the Sub-Registrar ought not to have registered the said document as Plot Nos.38 and 39 and were shown in the schedule of property itself and that therefore, the cultivating tenancy release deed dated 14.12.2012 is legally invalid.

8. Admittedly, the petitioners 2 and 3/accused 2 and 3 are the sons of the first petitioner/first accused and that the fourth petitioner/accused 4 is the employee of the first petitioner. As rightly contended by the learned Counsel for the intervenor, though the property was converted into house plots even in the year 1983, the first petitioner had entered into a document as if he was



of the said document, he had attempted to trespass into the property belonging to the defacto complainant, who purchased the property from the previous owner Babu Kandasamy.

9. Considering the above facts and circumstances and also the seriousness and gravity of the offences alleged and also the way in which the first petitioner had taken a document as if he was purchasing the cultivation right in respect of the property which was converted as house plots in 1983 itself and that the investigation is pending as stated by the learned Government Advocate (Crl.Side), this Court is not inclined to grant anticipatory bail to the petitioners.

10. In the result, the Criminal Original Petition is dismissed.
sd/-

08/04/2022

/ TRUE COPY /

/ /2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SSL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE INSPECTOR OF POLICE
C-2 POLICE STATION,
(SUBRAMANIAPURAM POLICE STATION),
MADURAI 625 003.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADRURAI.

+1 CC to M/s.R.RAMASAMY, Advocate (SR-3187[I] dated 11/04/2022)

ORDER
IN
CRL OP(MD) No.5763 of 2022
Date :08/04/2022

PKP/SVR/SAR-1/12.04.2022/4P/4C